IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY

WEDNESDAY, THE 17TH JANUARY 2007 / 27TH PAUSHA 1928

CRL.A.No. 857 of 1998()

AGAINST JUDGMENT DATED 30.7.1998 IN ST.1188/1996 of JUDL. MAGISTRATE OF FIRST CLASS-I, KOCHI -5.

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APPELLANT: COMPLAINANT:

BABU, S/O. ITTAMAN, THAYATTUPARAMBIL HOUSE, NAYARAMBALAM VILLAGE, KOCHI TALUK, ERNAKULAM.

BY ADV. SRI.N.UNNIKRISHNAN
SRI.E.N.HARIDASAN

RESPONDENTS: ACCUSED &STATE:

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1. **RAMESH CHANDRAN, S/O.KRISHNAN, PARAYAKATTU, MALIPPURAM P.O., ERNAKULAM.**

2. **STATE OF KERALA, REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.**

BY PUBLIC PROSECUTOR SRI. K.C. SANTHOSH KUMAR

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 17/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.B. KOSHY, J.

Crl. Appeal No.857 of 1998

Dated this the 17th day of January, 2007

Judgment

This appeal is filed against the order of acquittal. Notice was ordered as early as on 3.11.1998. No effective steps were taken. On 4.10.2006, the appellant was directed to serve process within two days and also sent notice by registered post to the accused as well as to the lawyer appeared in the court below, but, no steps were taken. Today, it is submitted that there is no instructions. The court below also found that there was no evidence to prove that the cheque which was sought to be enforced in the complaint under section 138 of the Negotiable Instruments Act was issued for a legally enforceable debt or liability. Defence evidence would prove that respondent accused has no transaction with the complainant. One blank cheque was given to one Sasi as security for repayment of money borrowed by him and what was repaid in instalment was used by the complainant. Evidence of DWs 1 to 3 would show that

defence evidence is more probable. In these circumstances, I dismiss the appeal.

J.B.KOSHY
JUDGE

vaa

J.B. KOSHY AND, J.

CRL.APPEAL No.857/98

Judgment

Dated:17th January, 2007